

**Applicant: James A. Proctor, Jr.**  
**Application No.: 09/772,176**

**REMARKS/ARGUMENTS**

After the foregoing Amendment, claims 1-2, 5-19, 21-22, 25-39, and 42 are currently pending in this application. Claims 1-2, 5-19, 21-22, 25-39, and 42 are amended.

**Claim Rejections - 35 U.S.C. § 102(e)**

Claims 1, 8 – 15, 18, 21, 28 – 35, 38, and 42 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,259,919 to Suonvieri et al. (hereinafter "Suonvieri").

Claims 1, 2, 5 – 7, 14, 18, 21, 22, 25 – 27, 34, and 42 are rejected as being anticipated by U.S. Patent No. 6,564,042 to Jou et al (hereinafter "Jou").

Claims 1, 14, 18, 19, 21, 34, 38, 39, and 42 are rejected as being anticipated by U.S. Patent No. 7,058,414 to Rofheart et al. (hereinafter "Rofheart").

Suonvieri is directed towards reducing the system overhead created when a mobile station frequently changes base stations (column 1, lines 22-25). This problem is resolved by handing the mobile station over to a larger, overlapping, base station (column 1, lines 26-30). Suonvieri specifically teaches away from using this method with mobile units that are not fast moving (column 2, lines 20-30).

In regard to claims 1, 21, and 42, the Examiner argues that Suonvieri teaches adjusting at least one signaling parameter based on the metric to compensate for

**Applicant: James A. Proctor, Jr.**  
**Application No.: 09/772,176**

the changes affecting the signaling path. The Applicant respectfully disagrees. Suonvieri teaches away from adjusting signaling parameters and instead teaches the use of a larger cell (column 1, lines 22-33). Suonvieri teaches that doing so will reduce the number of handover operations (Abstract), but does not teach or suggest that this will in any way change the signaling parameters. Even assuming that a change in signaling parameters is implied by a change to a larger cell, Suonvieri teaches only that this will result in fewer handover operations, and does not teach or disclose any particular advantage to the implied changes in signaling parameters. Because Suonvieri fails to teach all of the elements of claims 1, 21, and 42, claims 1, 21, and 42 are patentably distinguishable over Suonvieri.

Claims 8 – 15, 18, 28 – 35, and 38 directly or indirectly depend on claims 1 and 21 respectively, and the Applicant believes these claims are allowable over Suonvieri for the same reasons provided above.

Jou is directed to constructing gain tables for mobile stations (Abstract). Jou teaches that for a given frame error rate, the traffic-to-pilot ratio varies with the velocity of the mobile station (column 2, lines 50-51). To account for this variance, the velocity of a mobile station is calculated and the transmit power of the mobile station in uplink communication is adjusted accordingly (column 2, line 26 to column 3, line 15).

**Applicant: James A. Proctor, Jr.**  
**Application No.: 09/772,176**

In regard to independent claims 1, 21, and 42, the Examiner argues that Jou discloses calculating a metric of a modulated signal, the metric indicative of a change in the signaling path. The Applicant respectfully disagrees. While the velocity of the mobile station may be calculated, Jou does not teach or suggest that a change to the signaling path may be so calculated. Motion of the mobile station may cause a change in the signaling path; however, the velocity of the mobile station is not equivalent to a change in the signaling path. For example, the method disclosed in Jou would have no applicability wherein the mobile station is relatively stationary with respect to the base station even though changes to the signaling path may still occur. Because Jou fails to teach all of the elements of claims 1, 21, and 42, claims 1, 21, and 42 are patentably distinguishable over Jou.

Claims 2, 5 – 7, 14, 18, 21, 22, 25 – 27, and 34 directly or indirectly depend on claims 1 and 21 respectively, and the Applicant believes these claims are allowable over Jou for the same reasons provided above.

Rofheart is directed to a method of blocking communications between two devices depending on the distance between the devices (Abstract). The distance is measured as a function of the time lag between a transmission and the reception of a response (Abstract). Various methods related to infra-red and Bluetooth communications are disclosed (column 3, line 35 to column 4, line 60).

**Applicant: James A. Proctor, Jr.**  
**Application No.: 09/772,176**

Regarding independent claims 1, 21, and 42, the Examiner argues that Rofheart discloses calculating a metric of a modulated signal, the metric indicative of a change in the signaling path as a function of a change in at least one modulation attribute of the modulated signal the modulation attribute being at least one of amplitude, frequency, or phase. The Applicant respectfully disagrees. One skilled in the art would recognize that Rofheart does not disclose any material relevant to wireless signal path as is recited in independent claims 1, 21, and 42. Furthermore, Rofheart merely teaches measuring distance and fails to teach or disclose measuring amplitude, frequency, or phase. Because Rofheart fails to teach all of the elements of claims 1, 21, and 42, claims 1, 21, and 42 are patentably distinguishable over Rofheart.

Claims 14, 18, 19, 21, 34, 38, and 39 directly or indirectly depend on claims 1 and 21 respectively, and the Applicant believes these claims are allowable over Rofheart for the same reasons provided above.

Based on the arguments presented above, withdrawal of the 35 U.S.C. § 102(e) rejection of claims 1, 2, 5 – 7, 14, 18, 21, 22, 25 – 27, 34, and 42 is respectfully requested.

**Applicant: James A. Proctor, Jr.**  
**Application No.: 09/772,176**

**Claim Rejections - 35 USC §103**

Claims 16, 17, 36, and 37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,259,919 to Suonvieri et al. further in view of U.S. Patent No. 5,940,454 to McNicol et al. (hereinafter "McNicol").

As discussed above, Suonvieri does not disclose all of the elements of independent claims 1, 21, or 42. McNicol does not remedy these deficiencies. McNicol is directed to selecting an antenna depending on signal quality and is concerned only with fixed subscriber units (Abstract and column 6, lines 3-8). Therefore, the combination of Suonvieri and McNicol does not suggest or teach all of the features of claims 16, 17, 36 and 37. These claims are therefore patentable over the combination of Suonvieri and McNicol.

Based on the arguments presented above withdrawal of the rejection of Claims 16, 17, 36, and 37 under 35 U.S.C. §103(a) is respectfully requested.

**Conclusion**

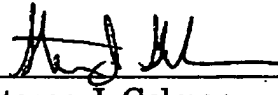
If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

**Applicant: James A. Proctor, Jr.**  
**Application No.: 09/772,176**

In view of the foregoing [amendment and] remarks, Applicants respectfully submit that the present application is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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SJG/ADK/rlm  
Enclosure